This decision rests upon the ground that the plaintiff, having previously passed the pole, either on foot or on the top of a freight car, the danger of being struck might not have been so obvious to him from such point of view as to charge him with knowledge of it. One justice dissents, and says: "This, and like cases that may be found in the reports, we think cannot be sustained upon principle and leave anything of the rule of assumed risks." Cf. Bailey, Mast. Liab., p. 80. "When the location is ascertained the danger is manifest; it being the law and the contract that the servant ought to know that which was plain to be seen, and which it was a part of his duty to learn and know."

SCHOOLS—DISCRIMINATION BETWEEN COLORED CHILDREN—RIGHTS UNDER THE CONSTITUTION—ELIZABETH CISCO V. SCHOOL BOARD OF THE BOROUGH OF QUEENS, NEW YORK CITY—Decided New York Court of Appeals, February 6, 1900.—Where separate schools of equal accommodations are provided for white and colored children, a refusal to grant admission to colored children to the schools maintained for white pupils does not violate any of the rights guaranteed by the Constitution. See Comment.

SCHOOLS—DISCRIMINATION AGAINST COLORED CHILDREN — RIGHTS UNDER THE FOURTEENTH AMENDMENT—J. W. CUMMINGS ET AL. V. COUNTY BOARD OF EDUCATION OF RICHMOND COUNTY, STATE OF GEORGIA.—A temporary suspension of a high school for colored children, in order that the funds used in its support might be diverted towards the education of children of the same race in the primary schools, is no ground for the granting of an injunction restraining the Board of Education from using certain funds for the maintenance of a high school for white children. See Comment.

STREET RAILWAYS—INJURIES TO PASSENGER—CONTRIBUTORY NEGLIGENCE—WISE V. BROOKLYN HEIGHTS R. CO., 61 N. Y. Sup. 530.—Plaintiff alighted at night from a street car at a station in the suburbs of a city, and on starting to cross a parallel track was struck and injured by a car running at high speed, on a down grade, in the opposite direction. The car from which plaintiff alighted obstructed the view of the approaching car, which at the time was from 800 to 1200 feet distant. *Held*, that the question of his negligence should have been allowed to go to the jury, and not decided to be contributory negligence per se by the court; first, because by reason of the darkness and existing obscurities, plaintiff might not, in the exercise of prudence, have determined that the car was too close to render it dangerous to attempt to cross the track, and, secondly, because, since a street railway company is not justified in running its cars at high speed past a car standing on a parallel track to allow passengers to alight, who might cross to either side of the street, its act in so doing, rendering the place appointed for passengers to alight dangerous, is an act of negligence tending to excuse plaintiff's failure to observe the approaching car.

To constitute contributory negligence, an act must be the proximate cause of the injury, and also show lack of care on the plaintiff's part. The New York rule in *Landrigan* v. *R. R.*, 23 App. Div. 43, holds failure to observe the approach of a car on a parallel track, under circumstances somewhat similar to the present case, contributory negligence per se, but the present case is distinguished because the darkness might have made the failure to see the car not inconsistent with the exercise of due care, and also because, the accident having happened at a station where passengers were being discharged, the company was guilty of negligence in not slackening the speed of the car that struck plaintiff. This may have been the proxi-